

ORIGINAL

OPEN MEETING ITEM

COMMISSIONERS  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



0000105526

Executive Director

ARIZONA CORPORATION COMMISSION

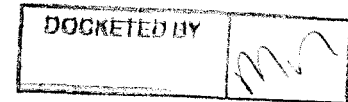
DATE: NOVEMBER 30, 2009

DOCKET NO.: T-04223A-08-0188

TO ALL PARTIES:

Arizona Corporation Commission  
**DOCKETED**

NOV 30 2009



Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

NETWORK PTS, INC.  
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

DECEMBER 9, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

DECEMBER 15, 2009 and DECEMBER 16, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION  
DOCKET CONTROL

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

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[www.azcc.gov](http://www.azcc.gov)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov)

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION  
9 OF NETWORK PTS, INC., FOR THE  
10 CANCELLATION OF ITS CERTIFICATE OF  
11 CONVENIENCE AND NECESSITY TO PROVIDE  
12 ALTERNATIVE OPERATOR SERVICES.

DOCKET NO. T-04223A-08-0188

DECISION NO. \_\_\_\_\_

13 **ORDER**

14 Open Meeting  
15 December 15 and 16, 2009  
16 Phoenix, Arizona

17 **BY THE COMMISSION:**

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. Network PTS, Inc., ("Network" or "Company") has a Certificate of Convenience and  
22 Necessity ("Certificate") to provide alternative operator services within Arizona pursuant to Decision  
23 No. 66889 (April 6, 2004).

24 2. On April 8, 2008, the Company filed with the Commission an application for  
25 cancellation of its Certificate ("Application"). Network stated that it no longer provides service in  
26 Arizona and currently has no customers in Arizona.

27 3. On August 28, 2009, Network filed an Affidavit averring that, as of the filing date of  
28 the Application, the Company had no customers in Arizona.

4. On October 28, 2009, Staff filed its Staff Report recommending approval of  
Network's Application.

5. According to Network, it ceased operations in December 2008. Further, Staff stated  
that Network never had any presubscribed customers and all of its pay telephone customers in

1 Arizona had selected other operator service providers. Staff verified with the Company that it did not  
2 collect advances, deposits and/or prepayments from its former customers.

3 6. The Commission's Consumer Services Section of the Commission's Utilities Division  
4 reported that Network had one complaint in 2006, but in 2007 through June 25, 2009, there were no  
5 other customer complaints, inquiries or opinions against the Company. Additionally, Staff noted that  
6 its review of the compliance database indicates Network has no compliance delinquencies.

7 7. Staff stated that Network's authority to do business in Arizona was revoked on April  
8 8, 2009, for failure to file its Annual Report with the Corporations Division.

9 8. The Company did not comply with the terms of A.A.C. R-14-2-1107, requiring the  
10 Company to provide notice to customers of its discontinuation of service, a plan for the refund of  
11 deposits, a list of alternate providers, and to publish notice of the application. However, Staff  
12 asserted that, because the Company did not have any customers in Arizona at the time Network's  
13 Application was filed, the provisions of A.A.C. R-14-2-1107 should be waived.

14 9. As discussed in Decision No. 67404 (November 2, 2004), it would render A.A.C.  
15 R14-2-1107 meaningless and would run afoul of the rule's intent and plain language to exempt a  
16 Company from the requirements of the rule because it has no customers due to its discontinuation of  
17 service. However, as discussed in that Decision, the intent of the rule is to ensure that existing  
18 customers have advance notice of a telecommunications provider's pending plan to discontinue  
19 service such that they will be afforded an opportunity to procure service through an alternative  
20 provider prior to such discontinuance.

21 10. The Company has no Arizona customers and did not collect any advances, deposits  
22 and/or prepayments. Under these circumstances, the requirements of A.A.C. R-14-2-1107 should be  
23 waived.

24 11. Staff recommends approval of Network's Application and cancellation of the  
25 Company's Certificate and its Arizona Tariff No. 1 on file with the Commission.

26 12. Staff's recommendations are reasonable and should be adopted.

27 ...

28 ...

## CONCLUSIONS OF LAW

1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over the Company and the subject matter of the Application.

3. The cancellation of the Company's Certificate is in the public interest.

4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

5. The requirements of A.A.C. R14-2-1107 should be waived in this case.

6. Staff's recommendations are reasonable and should be adopted.

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**ORDER**

IT IS THEREFORE ORDERED that the Application of Network PTS, Inc., for the cancellation of its Certificate of Convenience and Necessity to provide alternative operator services in Arizona is hereby approved and its Certificate of Convenience and Necessity is cancelled.

IT IS FURTHER ORDERED that Network PTS, Inc.'s Arizona Tariff No. 1 is hereby cancelled.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: NETWORK PTS, INC.

2 DOCKET NO.: T-04223A-08-0188

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